

FINDING OF EMERGENCY

These regulations are being implemented on an emergency basis for the immediate preservation of the public peace, health and safety, or general welfare, within the meaning of Government Code Section 11346.1. Further, Government Code Section 11346.1(a)(2) requires that, at least five working days prior to submission of the proposed emergency action to the Office of Administrative Law, the adopting agency provide a notice of the proposed emergency action to every person who has filed a request for notice of regulatory action with the agency. After submission of the proposed emergency to the Office of Administrative Law, the Office of Administrative Law shall allow interested persons five calendar days to submit comments on the proposed emergency regulations as set forth in Government Code Section 11349.6. To determine the Office of Administrative Law five day comment period check <http://www.oal.ca.gov/> often.

DESCRIPTION OF SPECIFIC FACTS WHICH CONSTITUTE THE EMERGENCY

1. The Legislature enacted the provisions of Senate Bill (SB) 72 (Chapter 8, Statutes of 2011) on an urgency basis to take effect immediately. These emergency regulations will amend the rules the CalWORKs program employs to determine financial eligibility and grant amounts for program recipients who have earned income.
2. The Legislature has declared that these regulations implementing SB 72 meet the requirements for emergency implementation and that the process for their adoption is exempt from the review process by the Office of Administrative Law.
3. SB 72, Section 42, directed that notwithstanding the rulemaking provisions of the Administrative Procedure Act, the California Department of Social Services (CDSS) may implement applicable provisions of the law through All County Letter (ACL) or similar instructions from the department until regulations are adopted.
4. Delay in the implementation of these regulations would conflict with the statutory directive that emergency regulations be adopted. Relevant portions of Section 42 of SB 72 read as follows:
 - Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the department may implement and administer the changes to Sections 11265.2, 11266.5, 11320.15, 11320.3, 11322.63, 11323.25, 11450, 11450.02, 11450.025, 11451.5, 11454, 11454.5, 12309.1, and 17021 of the Welfare and Institutions Code, as contained in this act, through all-county letters or similar instructions from the department until regulations are adopted. The department shall adopt emergency regulations implementing these provisions no later than July 1, 2012. The department may readopt any emergency regulation authorized by this section that is the same as or substantially equivalent to an emergency regulation previously adopted under this section.

- The initial adoption of emergency regulations pursuant to this section and one readoption of emergency regulations shall be deemed an emergency and necessary for the immediate preservation of the public peace, health, safety, or general welfare. Initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The initial emergency regulations and the one readoption of emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and each shall remain in effect for no more than 180 days, by which time final regulations may be adopted.

This language directs CDSS to adopt emergency regulations by July 1, 2012, implementing the statutory changes made by SB 72.

5. Therefore, in order to preserve the public peace, health, safety, and general welfare of the State of California, these regulations are adopted on an emergency basis.

INFORMATIVE DIGEST

Existing law provides for the California Work Opportunity and Responsibility to Kids (CalWORKs) program under which, through a combination of state and county funds and federal funds received through the Temporary Assistance for Needy Families (TANF) program, each county provides cash assistance and other benefits to qualified low-income families. To qualify for the program, a family's total net nonexempt income must be below a certain dollar amount. In calculating that net income, a portion of earned income is disregarded.

Existing law establishes maximum aid grant amounts to be provided under the CalWORKs program, subject to specified adjustments. Existing law reduces the maximum aid payments in effect on September 1, 2007, by 4%, commencing July 1, 2009. SB 72 reduces the maximum aid payments in effect on July 1, 2009, by an additional 8%, and authorized implementation of this reduction by all-county letters or similar instructions from the CDSS, pending the adoption of regulations, as specified.

Existing law provides that certain amounts are exempt from the calculation of income of the family for purposes of determining financial eligibility for the CalWORKs program. These exempt amounts include \$225 of disability-based unearned income, and an amount of otherwise exempt earned income as specified. SB 72 revises the above earned income calculation when the amount of disability-based unearned income is less than \$225, to exempt the total amount of the disability-based unearned income plus the lesser of (1) \$112 of earned income that is not otherwise exempt, or (2) the amount of otherwise nonexempt earned income that represents the difference between the amount of unearned disability-based income and \$225 (up to \$112), and 50% of any additional earned income.

The Manual of Policies and Procedures (MPP) is being amended to mirror changes made to the Earned Income Disregard (EID) implemented by SB 72. The MPP contains several handbook sections with examples of application of the income disregards in determining eligibility and aid payment levels. These handbook sections and examples are being updated with the revised method for calculating net income based upon Welfare and Institutions Code Section 11451.5, the applicable current Maximum Aid Payment (MAP) levels in Welfare and Institutions Code

Sections 11450 and 11453(c)(6), and the Minimum Basic Standard of Adequate Care (MBSAC) levels as determined per Welfare and Institutions Code Section 11453.

The CDSS finds that these proposed regulations are compatible and consistent with the intent of the Legislature as well as with existing state regulations.

COST ESTIMATE

1. Costs or Savings to State Agencies: These proposed regulations will save approximately \$5,587,000 FY 2011-12, and \$6,172,000 annually and ongoing beginning FY 2012-13.
2. Costs to Local Agencies or School Districts Which Must Be Reimbursed in Accordance With Government Code Sections 17500 - 17630: None
3. Nondiscretionary Costs or Savings to Local Agencies: These proposed regulations will save approximately \$1,998,000 in FY 2011-12, and \$2,149,000 million in FY 2012-13 and ongoing annually.
4. Federal Funding to State Agencies: These proposed regulations will save approximately \$76,768,000 in FY 2011-12, and \$89,570,000 annually and ongoing beginning FY 2012-13.

LOCAL MANDATE STATEMENT

These regulations do impose a mandate on local agencies, but not on school districts. If the Commission on State Mandates determines that these regulations contain reimbursable costs mandated by the state, reimbursement to local agencies for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

AUTHORITY AND REFERENCE CITATIONS

CDSS adopts these regulations under the authority granted in Section 10553 and 10554 of the Welfare and Institutions Code and Senate Bill 72 (Ch. 8, Statutes of 2011) Section 42. Subject regulations implement and make specific sections 11450, 11451.5 and 11453, Welfare and Institution Code.